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ACTION HCRC-00

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TO SECSTATE WASHDC 3479

UNCLAS BUENOS AIRES 2634

H PASS

E.O. 12065: N/A
TAGS: SHUM, SREF (GASPARINI, OSVALDO C)
SUBJECT: VISAS: CONGRESSIONAL CORRESPONDENCE

ARGENTINA PROJECT (S200000044)
U.S. DEPT. OF STATE, A/RPS/IPS
Margaret P. Grafeld, Director
☒ Release ☐ Excise ☐ Deny
Exemption(s): _____
Declassify: ☐ In Part ☐ In Full
☐ Classify as ☐ Extend as ☐ Downgrade to _____
Date _____ Declassify on _____ Reason _____

TO: HONORABLE PAUL LAXALT
U.S. SENATE WASHINGTON DC. 20510

DEAR SENATOR LAXALT:

1. THIS IS IN REPLY TO YOUR INQUIRY BY TELEPHONE ON APRIL 15 ABOUT OSVALDO CESAR GASPARINI AND MICHEL LHANDÉ, ARGENTINE CITIZENS DETAINED BY THE GOVERNMENT OF ARGENTINA (GOA). IT IS ALSO RESPONSIVE TO THE INSTRUCTION WE HAVE JUST RECEIVED FROM THE DEPARTMENT OF STATE TO PROVIDE YOUR OFFICE WITH CURRENT INFORMATION ABOUT MR. GASPARINI'S REQUEST FOR "RIGHT OF OPTION".

2. WITH REGARD TO MR. LHANDÉ, WE HAVE BEEN INFORMED BY THE FOREIGN MINISTRY THAT HE WAS CONVICTED IN 1976 BY A COURT-MARTIAL WHILE ON ACTIVE DUTY WITH THE ARGENTINE ARMED FORCES FOR PROVIDING SECRET MILITARY INFORMATION TO THE TERRORIST ORGANIZATION, PEOPLE'S REVOLUTIONARY ARMY (ERP IN SPANISH), AND FOR TRYING TO RECRUIT HIS FELLOW SOLDIERS INTO THE ERP.
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HE WAS SENTENCED TO TEN YEARS IMPRISONMENT, WHICH SENTENCE WAS CONFIRMED IN 1976 BY THE SUPREME COUNCIL

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OF THE ARMED FORCES.

3. MR. LHANDÉ'S CASE THUS DOES NOT ARISE FROM THE STATE OF SIEGE (MARTIAL LAW) UNDER WHICH CIVILIANS ARE TRIED BY MILITARY COURTS OR ARE OTHERWISE HELD BY THE NATIONAL EXECUTIVE POWER (PEN). RATHER, MR. LHANDÉ WAS TRIED UNDER MILITARY LAW, I.E. THE LAW PERTAINING TO THE ADMINISTRATION OF THE ARMED FORCES. AS A CONVICTED PRISONER HE IS NOT ELIGIBLE UNDER ARGENTINE LAW FOR SELF EXILE IN LIEU OF FURTHER DETENTION (THE SOCALLED "RIGHT OF OPTION"). WE HAVE, OF COURSE, INFORMED THE ARGENTINE AUTHORITIES OF YOUR INTEREST IN MR. LHANDÉ'S CASE. YOU SHOULD ALSO KNOW THAT THE FRENCH GOVERNMENT HAS MADE REPRESENTATIONS IN HIS BEHALF. MR. LHANDÉ WILL BE THEORETICALLY ELIGIBLE FOR PAROLE IN MID-1983, WE UNDERSTAND. NEVERTHELESS,

IN VIEW OF THE CHARGES AGAINST HIM AND THE SENTENCE HE RECEIVED, AT THIS TIME IT WOULD APPEAR UNLIKELY THAT HE WILL OBTAIN EARLY RELEASE.

4. REGARDING MR. GASPARINI, WE HAVE ASKED THE FOREIGN MINISTRY FOR PRECISE INFORMATION ON HIS CURRENT STATUS, INFORMING THEM AS WELL OF YOUR INTEREST IN HIM. YOU MAY KNOW THAT THE EMBASSY WAS INVOLVED WITH MR. GASPARINI BEFORE, ON JULY OF 1980, WHEN WE ISSUED HIM A CERTIFICATE STATING THAT HE WOULD BE ADMITTED TO THE U.S. AS A REFUGEE IF THE ARGENTINE GOVERNMENT GRANTED THE "RIGHT OF OPTION". THE CERTIFICATE IS USED BY A DETAINEE WHEN HE APPLIES

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TO THE ARGENTINE GOVERNMENT TO EXERCISE HIS "RIGHT OF OPTION." ON JULY 29, 1980, HIS MOTHER INFORMED US THAT THEY WERE GOING TO PURSUE, INSTEAD, ARGENTINE GOVERNMENT PERMISSION FOR "OPTION" TO TRAVEL TO SWITZERLAND. THIS APPLICATION WAS DENIED BY THE ARGENTINE AUTHORITIES.

5. WE HAVE NOT HEARD FROM MR. GASPARINI SINCE JULY OF 1980. WE HAVE NOW WRITTEN HIM. IF MR. GASPARINI REMAINS A PEN PRISONER HE WOULD STILL BE ELIGIBLE FOR THE RIGHT OF OPTION. THUS, SHOULD HE WISH IT, WE WOULD ISSUE HIM ANOTHER CERTIFICATE

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OF ELIGIBILITY.

6. I WILL INFORM YOU IMMEDIATELY WHEN WE EARN MORE ABOUT MR. GASPARINI'S SITUATION. IN ANY CASE, WE WILL CONTINUE TO FOLLOW HIS CASE AS WELL AS THAT OF MR. LHANDÉ WITH CLOSE ATTENTION, LETTING YOU KNOW OF ANY SIGNIFICANT DEVELOPMENTS.

HARRY W. SHLAUDEMÁN
AMERICAN AMBASSADOR
BUENOS AIRES, ARGENTINA
SHLAUDEMÁN

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